RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lake Elsinore
130 South Main Street
Lake Elsinore, CA 92530
Attention: City Clerk

(Space above for Recorder's use)

(Exempt from Recording Fees Per Govt Code §27383.)

DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF LAKE ELSINORE AND PACIFIC CLAY PRODUCTS, INC. REGARDING THE DEVELOPMENT KNOWN AS ALBERHILL VILLAGES

February ___, 2017

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DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF LAKE ELSINORE AND PACIFIC CLAY PRODUCTS, INC. REGARDING THE DEVELOPMENT KNOWN AS ALBERHILL VILLAGES

This Development Agreement ("Agreement") is made and entered into as of February 28, 2017, by and between the City of Lake Elsinore, a California general law city ("City") and Pacific Clay Products, Inc., a Delaware corporation ("Owner") pursuant to the authority of Article 2.5, Chapter 4, Division 1, Title 7 (§65864, *et seq.*) of the Government Code relating to Development Agreements. City and Owner are hereinafter sometimes referred to individually as a "Party" and collectively as "Parties."

RECITALS

A. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of Development and to reduce the waste of resources, the Legislature adopted the Development Agreement Statutes codified at §65864 *et seq.* of the California Government Code (the "Development Agreement Statutes").

B. This Development Agreement ("Agreement") relates to the Development known as Alberhill Villages, a mixed-use residential Development which includes up to 8,024 residential units, 3,810,300 square feet of commercial, office and institutional uses, approximately 194 acres of natural or enhanced open space with multi-use trails, a 41.5-acre Recreational Lake and Lakeside Park, as well as a 45.9-acre City Regional Sports Park, and a 14.3-acre Public Community Park and other uses as more particularly set forth in the Amended and Restated AVSP, as hereinafter defined (the "Project").

C. Owner owns in fee approximately 1,375 acres of undeveloped real property located in the City of Lake Elsinore ("Property"), more particularly described in Exhibit A attached hereto, and desires to locate the Project on the Property.

D. The City has adopted procedures and requirements for the consideration of Development agreements which are set forth in Chapter 19.12 of the Lake Elsinore Municipal Code ("City Code"). The City and Owner have taken all actions and have fulfilled all requirements mandated by Chapter 19.12 of the City Code and the Development Agreement Statutes.

E. On June 14, 2016, after public hearings and adequate environmental analysis, the City Council granted the following approvals:

(i) Resolution No. 2016-076 certifying the Final Environmental Impact Report (SCH No. 2012061046) for the Alberhill Villages Specific Plan No. 2010-02 (the "Final EIR"), General Plan Amendment No. 2012-01 and Zone Change No. 2012-02, Adopting Findings Pursuant to the California Environmental Quality Act, Adopting a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program.

(ii) Resolution No. 2016-77 approving General Plan Amendment No. 2012-01 which amended the Lake Elsinore General Plan land use designation for the Property to "Alberhill Villages Specific Plan."

(iii) Ordinance No. 2016-1361, effective July 28, 2016, adopting the Alberhill Villages Specific Plan No. 2012 and Zone Change 2012-02 which amended the zoning for the Property to "Alberhill Villages Specific Plan."

F. Following the adoption of the June 14, 2016 approvals identified in Recital E, Owner and City engaged in discussions and thereafter mutually proposed an Amended and Restated AVSP in an effort to eliminate certain ambiguities and provide clarification with respect to the implementation of the AVSP, refine the AVSP land use plan, and identify a financing mechanism for the Regional Sports Park. In order to provide for, implement, and govern the relationship between the City and Owner with respect to the long-term Development of the Project, the Parties now desire to enter into this Development Agreement.

G. On February 7, 2017, the City of Lake Elsinore Planning Commission held a duly noticed public hearing to consider an Addendum as defined in Section 1.3.1, the Amended and Restated AVSP, and this Agreement and recommended City Council approval.

H. On February 14, 2017, the City Council held a duly noticed public hearing to consider the Addendum, the Amended and Restated AVSP, and this Agreement and granted the following approvals:

(i) Resolution No. ___ approving the Addendum.

(ii) Ordinance No. ___ ,effective March 30, 2017, approving the Amended and Restated AVSP.

(iii) Ordinance No. _____ ,effective March 30, 2017, approving this Development Agreement and authorizing the execution, delivery and recordation thereof ("Adopting Ordinance").

I. On February 28, 2017 the City Council conducted a second reading and adopted the Ordinances referenced in Recital H approving the Amended and Restated AVSP and this Agreement.

J. Having duly considered this Agreement and having held all required noticed public hearings, City finds and declares that this Agreement (i) is consistent with the Lake Elsinore General Plan, the Amended and Restated AVSP and all other applicable plans, rules, regulations and official policies of the City, (ii) is compatible with the orderly Development of the Property and the surrounding area; (iii) is in conformity with public convenience, general welfare and good land use practices, (iv) will not be detrimental to the health, safety and general welfare of the City's residents, businesses and visitors, and (v) constitutes a lawful, present exercise of the City's police power and authority under the Development Agreement Statutes and Chapter 19.12 of the City Code.

NOW, THEREFORE, City and Owner agree as follows:

1 GENERAL PROVISIONS

1.1 The Project.

The Project is the Development and use of the Property, consisting of approximately 1,375 acres of undeveloped property in the City of Lake Elsinore, in accordance with the Amended and Restated AVSP. The Amended and Restated AVSP permits and provides for the Development of a mixed-use residential Development including up to 8,024 residential units, 3,810,300 square feet of commercial, office and institutional uses, approximately 194 acres of natural or enhanced open space with multi-use trails, a 41.5-acre Recreational Lake and Lakeside Park, as well as a 45.9-acre City Regional Sports Park, and a 14.3-acre Public Community Park, and other uses as more particularly set forth in the Amended and Restated AVSP, as hereinafter defined.

1.2 The Property.

The Property is generally located west of Lake Street and south of the I-15 Freeway in the City of Lake Elsinore, California. The Property consists of approximately 1,375 acres of land and is more particularly described in Exhibit A which is incorporated herein and made a part of this Agreement.

1.3 Definitions.

The following terms when used in this Agreement shall have the following meanings:

1.3.1 "Addendum" means the Addendum to the Final EIR [SCH No. 2012061046] for the Amended and Restated AVSP and this Agreement.

1.3.2 "Agreement" means this Development Agreement and any written amendments thereto.

1.3.3 "Amended and Restated AVSP" means the Amended and Restated Alberhill Villages Specific Plan approved by the City Council by Ordinance No. ___ introduced on February 14, 2017 and adopted on February 28, 2017 as referenced in Recital H and I.

1.3.4 "Applicable Rules and Regulations" means only those ordinances, resolutions, rules, orders, regulations, and formally adopted policies of the City applicable to the Development and occupancy of the Property, including the Planning Documents, which are in effect on the Effective Date, subject to the exceptions set forth in Sections 1.3.4.1 through 1.3.4.10 below.

1.3.4.1 State and Federal Laws. As provided in Government Code §65869.5, in the event that state or federal laws or regulations, enacted after the Effective Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. The rights of Owner under this Agreement shall not be otherwise affected by such modification or suspension.

1.3.4.2 Health and Safety. Nothing in this Agreement shall prevent City from enacting ordinances, resolutions, rules, regulations or policies necessary to protect City residents, businesses and visitors from an adverse risk to health or safety. Such ordinances, resolutions, rules, regulations or policies shall be applicable to the Development of the Project.

1.3.4.3 Application, Processing and Inspection Fees. Owner shall be subject to Application, Processing and Inspection Fees that are revised during the Term of this Agreement. Owner shall also receive the benefit of any lowering of such Application, Processing and Inspection Fees. Owner shall pay all applicable Application, Processing and Inspection Fees to the extent the fees are uniformly applied to all Development within the City.

1.3.4.4 Development Impact Fees. Owner shall be required to pay Existing Development Impact Fees (as defined in this Agreement) in connection with the Development of the Project in accordance with the limitations set forth in Section 2.6.4.

1.3.4.5 Procedural Regulations. Procedural regulations relating to hearing bodies, applications, notices, findings, hearings, reports, recommendations, appeals and any other matter of procedure.

1.3.4.6 Regulations Governing Construction Standards. Regulations governing construction standards and specifications including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code, provided that such construction standards and specifications are applied on a City-wide basis.

1.3.4.7 Non-Conflicting Regulations. Written regulations approved by the City that are not in material conflict with the Applicable Rules and Regulations and do not materially and adversely impact the Development of the Property.

1.3.4.8 Certain Conflicting Regulations. Written regulations approved by the City that are in material conflict with the Applicable Rules and Regulations only if Owner has given its written consent to the application of such regulations to Development of the Property.

1.3.4.9 Regulation by Other Public Agencies. The Parties acknowledge that other public agencies, not within the control of the City, possess authority to regulate aspects of the Development of the Project and the Property separately from the City. This Agreement does not limit the authority of such other public agencies.

1.3.4.10 General and Special Taxes. Owner and occupants shall pay general or special taxes, including but not limited to, property taxes, sales taxes, transient occupancy taxes, business taxes, which may be applied to the Property or to businesses occupying the Property; provided, however, that the tax is of general applicability Citywide or legally added as a condition of approval to future discretionary approvals, if any, relating to the intensification of existing mining operations requested by Owner. Nothing in this Agreement prohibits the adoption and application of a CFD special tax approved by the City in accordance with Sections 3.2 and 3.3 of this Agreement.

1.3.4.11 Planning Documents Control. Except as set forth in Sections 1.3.4.1 through 1.3.4.9 above, in the event of any conflict between the Planning Documents and the Applicable Rules and Regulations, the Planning Documents shall govern and control.

1.3.5 "Application, Processing and Inspection Fees" means the fees required by the City that are of general applicability to the entire City and cover the actual costs of the City to process applications and/or conduct inspections for the Project.

1.3.6 "Assumption Agreement" means an agreement substantially conforming to the model assumption agreement described in Exhibit B, or other agreement in a form approved by the City Attorney, executed by a purchaser, assignee or transferee of the Property, or a portion of the Property, expressly assuming certain obligations and inuring to certain rights under this Agreement.

1.3.7 "City" means the City of Lake Elsinore.

1.3.8 "City Manager" means City Manager of the City or his or her designee.

1.3.9 "CEQA" means the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* and the implementing regulations promulgated thereunder as the "CEQA Guidelines" (Title 14, California Code of Regulations Section 15000 et seq.) and the City's local guidelines.

1.3.10 "City Code" means the Lake Elsinore Municipal Code.

1.3.11 "City Council" means the duly elected legislative body governing the City of Lake Elsinore.

1.3.12 "Development" means grading, construction and/or installation of public improvements, infrastructure and facilities related to the Project (whether located within or outside the Property) and the construction and/or installation of private improvements, structures, buildings and facilities and the installation of landscaping.

1.3.13 "Director" means the City's acting Community Development Director from time to time, or if there is no Community Development Director, the City staff member who is charged with duties and responsibilities similar to those of the City's acting Community Development Director as of the Effective Date.

1.3.14 "Effective Date" means the effective date of the Adopting Ordinance.

1.3.15 "Existing Development Fees" means those development impact fees imposed by the City on and in connection with new Development pursuant to the Applicable Rules and Regulations which are defined in Section 2.6.3.

1.3.16 "Final EIR" is defined in Recital E.

1.3.17 "Owner" means Pacific Clay Products, Inc., a Delaware corporation, and any and all of its successors in title and/or successors in interest.

1.3.18 "Planning Documents" means, and shall be limited to, the General Plan Amendment and Zone Change referenced in Recital E, the Amended and Restated AVSP, the Final EIR and Addendum, any subsequent approvals and CEQA documents required for the implementation of the Project, this Agreement, and such amendments to this Agreement as may, from time to time, be approved pursuant to Section 7.1. "Planning Documents" shall not include

the Alberhill Villages Initiative to be submitted to the voters of City at a Special Municipal Election on May 2, 2017 or any subsequent voter initiative.

1.3.19 "Property" is defined in Recital C and more particularly described in Exhibit A.

1.3.20 "Project" is defined in Recital B and more particularly described in Section 1.1.

1.3.21 "Term" is defined in Section 1.4 of this Agreement.

1.4 Term of Agreement.

This Agreement shall commence upon the Effective Date and shall continue in force for a period of thirty (30) years unless extended or terminated as set forth herein, provided, that if the Project has not been fully developed by the end of such thirty (30) year period, the term of this Agreement shall be automatically extended for successive five (5) year periods unless and until either City or Owner notify the other in writing prior to the end of the then-existing term that such Party elects to terminate this Agreement effective as of the end of the then-existing term. Following the expiration of the term or any extension hereof, or if sooner terminated, this Agreement shall have no force and effect, subject however, to any post-termination obligations of the Parties.

1.5 Tentative Map Extensions.

Pursuant to Section 66452.6 of the California Government Code, any tentative map that is approved by the City shall remain in full force and effect for a period coterminous with the term of this Agreement.

1.6 Assignment and Assumption.

Owner shall have the right to sell, assign, or transfer the Property or any portion thereof, together with its rights and obligations under this Agreement to the extent the same apply to the lands so sold, assigned or transferred, to any person, firm or corporation at any time during the term of this Agreement. The terms, conditions, covenants, rights and obligations set forth in this Agreement and incorporated herein by exhibits shall run with the land and the burdens and benefits created by this Agreement shall bind and inure to the successive owners of the Property from time to time. Owner shall provide City with written notice of any assignment or transfer of all or a portion of the Property no later than thirty (30) days after such assignment or transfer. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the City Attorney, of the burdens and obligations with respect to the Property or such portion thereof sold, assigned or transferred, shall release and relieve Owner of such burdens and obligations so assumed. Any such assumption of Owner's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if evidenced by the execution of an Assumption Agreement in the form of that attached hereto as Exhibit B and incorporated herein by this reference.

1.7 Covenants Running With the Land.

The terms and conditions set forth in this Agreement, including the rights and obligations of the Parties hereto, shall constitute covenants running with the land. Each and every purchaser, assignee or transferee of an interest in the Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a Party thereto, but only with respect to the Property, or such portion hereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of Owner contained in this Agreement, and shall succeed to the benefits conferred upon Owner hereunder, as such duties, obligations and benefits pertain to the portion of the Property sold, assigned or transferred to it. Provided, however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed single-family residence, multi-family building or non-residential building which has been approved by the City for occupancy, the automatic termination provisions of Section 8.1 hereof shall apply thereto, and the rights and obligations of Owner and City hereunder shall not run with respect to such portion of the Property sold, assigned or transferred and shall not be binding upon such purchaser, assignee or transferee.

1.8 Successors in Interest.

All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of the Parties and their heirs, successors (by merger, consolidation, or otherwise), assigns, devisees, administrators, representatives, and all other persons or entities acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever.

1.9 Mortgages.

This Agreement shall be superior and senior to any lien placed upon the Property, or any portion of the Property, after the date of recording this Agreement, including the lien of any deed of trust or mortgage. Nonetheless, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any mortgagee who acquires an interest in the Property, or any portion of the Property. Any such mortgagee shall be released from the obligations under this Agreement, if any, upon transfer of the Property, or the portion of the Property as set forth in Section 1.6 of this Agreement.

1.10 Estoppel Certificate.

Either Party may at any time, and from time to time, deliver written notice to the other Party requesting that the other Party certify in writing to the knowledge of the certifying Party that: (a) this Agreement is unmodified and in full force and effect, or, if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modification; and (b) there are no current uncured defaults under this Agreement or, if such uncured defaults exist, specifying the dates and nature of any such defaults. The failure to deliver such a certificate to the requesting Party within thirty (30) calendar days of the request shall constitute a binding admission by the Party failing to deliver

the certificate that this Agreement is in full force and effect, without modification except as may be represented by the requesting Party, and that there are no uncured defaults in the performance of the requesting Party, except as may be represented by the requesting Party. Any such certificate requested by Owner may be executed by the City Manager and shall contain City's acknowledgment that the certificate is intended to, and may be, relied upon by lenders, mortgagees and transferees.

2 DEVELOPMENT OF THE PROPERTY

2.1 Vested Right.

The City has determined that the Project would provide significant public benefits to the City and its residents, businesses and visitors and that entry into this Agreement will further the goals and objectives of the City's land use planning policies by encouraging Development of the Property in accordance with the Applicable Rules and Regulations and eliminating uncertainty in the planning, entitlement and Development processes.

In exchange for the Project benefits to the City and its residents, businesses and visitors and in accordance with the Development Agreement Statutes and Chapter 19.12 of the City Code, Owner shall have a vested right to implement the Project in accordance with the Applicable Rules and Regulations, subject to the approval and issuance of any subsequent land use entitlements and permits which are required for the Development of the Project under the Applicable Rules and Regulations. As such, the Owner, if it chooses, may proceed to Develop the Property in accordance with the Applicable Rules and Regulations, with certainty that Owner will have the ability to expeditiously and economically complete the Project.

2.2 Agreement Does Not Authorize Development.

The Parties agree and acknowledge that this Agreement itself does not authorize Owner to undertake any Development of the Property and that before any Development activity can occur (a) the Owner must have submitted all applications for all land use entitlements and permits which are required under the Applicable Rules and Regulations, and (b) the City must have approved such land use entitlement and permit applications pursuant to the Applicable Rules and Regulations, including undertaking whatever environmental documentation required pursuant to CEQA.

This Agreement does not require the City to approve any land use entitlement or permit, but obligates the City to reasonably process all land use entitlement and permit applications submitted by Owner during the Term of this Agreement pursuant to the Applicable Rules and Regulations. Consequently, the City may approve, conditionally approve or deny such land use entitlement and permit applications on the basis of the Applicable Rules and Regulations. Upon approval by City of any of the land use entitlements and permits, as they may be amended from time to time, such land use entitlements and permits shall become part of the Applicable Rules and Regulations, and the Owner shall have a "vested right," as that term is defined under California law, in and to such land use entitlements and permits by virtue of this Agreement.

2.3 Phasing.

Development of the Project is expected to occur over the course of thirty (30) years, or more. Owner shall have the right to determine the timing and phasing of Development of the Project during the term of this Agreement, provided that all infrastructure necessary to serve that portion or phase of the Project being developed is in place prior to the occupancy thereof. In light of the California Supreme Court's holding in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the absence of reference in that developer's project approvals to a time schedule or rate of Development resulted in a later-adopted initiative restricting the timing of Development to prevail over the Parties' agreement, it is City's and Owner's intent to affirmatively address this issue by expressly acknowledging and providing that, subject to any infrastructure phasing requirements that may be required by the Planning Documents and Applicable Rules and Regulations, Owner shall have the vested right to develop the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its subjective business judgment.

2.4 Permitted Uses and Development.

The permitted uses, the density and intensity of use, and the transfer of such density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation and dedication of land (or payment of fees in lieu of dedication) for public purposes, the construction, installation and location of public improvements, and other terms and conditions of Development applicable to the Property shall be those, and only those, set forth in this Agreement, the Planning Documents and the Applicable Rules and Regulations. Notwithstanding the foregoing limitation, should Owner request an amendment to the General Plan and/or Amended and Restated AVSP, City may apply current regulations in effect at the time the application for amendment is deemed complete to the extent that the current regulations relate to the requested amendment.

2.5 Moratorium and Referendum.

No ordinance, resolution, rule, order, regulation or policy of the City shall be applied, imposed or enacted by the City which in any way relates to the rate, timing or sequencing of the Development or use of the Property, or any improvements related thereto, including any no-growth or slow-growth moratoriums or annual Development allocations, quotas or limitations, or which in any way conflicts with the permitted uses, density and/or intensity of uses, maximum building height and/or size, or other Development characteristics set forth in the Planning Documents. Pursuant to Government Code §65867.5, this Agreement is subject to referendum.

2.6 Fees.

2.6.1 Alberhill Park Fee. Prior to the issuance of any residential building permit in the Project, Owner shall pay to City "Alberhill Park Fee" in an amount equal to $2.00 per square foot of assessable space. "Assessable space" means all of the square footage within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, detached accessory structure or similar area. The amount of square footage within the perimeter of a residential structure shall be calculated by the City's building department in accordance with the City's standard practice of calculating structural perimeters. The Alberhill Park Fee shall be

deposited by City in a segregated account (the "Alberhill Park Fund") and shall be used exclusively to fund the improvements to the 45.9 acre Regional Sports Park; provided, however, upon final completion of such improvements, and City's payment in full of all costs of such improvements from the Alberhill Park Fund, any remaining balance in the Alberhill Park Fund may be expended by City for park improvements within the Alberhill District of the City's General Plan. Owner's obligation to pay the Alberhill Park Fee shall survive termination of this Agreement.

2.6.1.1 Phased Construction of Regional Sports Park. Pursuant to the Amended and Restated AVSP, Owner shall rough grade the Regional Sports Park site and construct the adjacent roadway infrastructure, including the portions of Lake Street adjacent thereto, in accordance with the schedule set forth in Table 3-2 of the Amended and Restated AVSP. Onsite improvements for the Regional Sports Park shall be constructed by Owner in phases, as sufficient Alberhill Park Fees are generated as set forth in Table 3-2 of the Amended and Restated AVSP. Such onsite improvements shall be designed, engineered and constructed in accordance with a conceptual design plan prepared by Owner and approved by the City Council and detailed park plans prepared by Owner and approved in writing by the Director. The Owner shall perform all of its obligations hereunder and shall conduct all operations with respect to the construction of the Regional Sports Park improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Owner shall maintain the improvements in good and safe condition and in proper operating condition, including such maintenance as the Director reasonably determines to be necessary, until the City's acceptance thereof. Upon substantial completion of the improvements for each phase of the Regional Sports Park, City shall inspect and approve such improvements subject to a punch list City shall issue itemizing any additional work which shall be reasonably required for final completion of such improvements. Owner shall use commercially reasonable efforts to complete the items on the City's punch list within a reasonable time after City's issuance thereof. Upon Owner's completion of the items on the City's punch list, and City's verification thereof, City shall promptly cause to be recorded in the Official Records of Riverside County a Notice of Completion and Acceptance ("NOCA") of such improvements. Within thirty (30) days following the recordation of the NOCA, Owner shall dedicate the improved park phase to the City by way of a duly executed grant deed delivered to and accepted by the City. The applicable park phase shall not be opened to the public until such park phase has been dedicated to the City as set forth herein. Upon Owner's dedication of the park phase to City, Owner shall assign to the City all of the Owner's rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to the improvements.

Notwithstanding the foregoing, in lieu of Owner's obligation to construct any or all or any phase of the Regional Sports Park improvements, City may, in its sole discretion, elect to construct all or any phase of Regional Sports Park improvements using remaining funds available in the Alberhill Park Fund.

2.6.1.2 Reimbursement Procedures. All costs incurred by Owner for the design, engineering and construction of onsite improvements for the Regional Sports Park shall be fully reimbursed by draws from the Alberhill Park Fund, in accordance with the procedures

set forth in this Section 2.6.1.2 and as more particularly described in the form Reimbursement Agreement attached hereto as Exhibit "C".

As Owner constructs portions of the onsite improvements for the Regional Sports Park, Owner shall submit to the Director, or designee, a Reimbursement Request in the form attached to the Reimbursement Agreement (Exhibit C), including copies of contracts, invoices, cancelled checks or other documentation requested by the Director, or designee, evidencing costs actually incurred by Owner ("Reimbursement Request"). The dollar amount of the reimbursement is to equal the actual cost incurred by the Owner in constructing the improvements, provided that the reimbursement cannot exceed the available funds in the Alberhill Park Fund. The Owner shall supply all documentation requested by the Director, or designee, in determining the actual construction cost of the improvements. Reimbursements from the Alberhill Park Fund shall be due and payable within thirty (30) calendar days of receipt of the Reimbursement Request submitted by the Owner.

2.6.1.3 Satisfaction of All Park Dedication and Development Requirements and Fees. Owner's compliance with the park development and dedication requirements set forth in the Amended and Restated AVSP and this Agreement, including the Development and dedication of the Regional Sports Park as set forth in the Amended and Restated AVSP and in this Section 2.6.1, shall satisfy all park dedication, park development, open space and recreation requirements and associated fees for the entire Project, including without limitation all requirements under the Quimby Act (codified at California Government Code § 66477) and all local ordinances relating thereto, and including all dedication, Development, improvement, in-lieu fees (including City Park Capital Improvement Fund Fees), and all other park, open space and recreation requirements of whatever type. City shall not require Owner to dedicate or improve any land, or pay, contribute to or otherwise provide any fee, as a condition or exaction of any subsequent approval by the City for the Development of the Property, or otherwise, which in any way relate to parks, open space or recreation.

2.6.2 Development Agreement Fees.

2.6.2.1 Initial Development Agreement Fee. Pursuant to City Code Section 19.12.170, Owner shall pay City an Initial Development Agreement Fee in the amount of One Hundred Thousand Dollars ($100,000) (the "Initial DAG") to offset the City's costs associated with the negotiation and preparation of this Agreement, the Amended and Restated AVSP and the City's costs associated with the May 2, 2017 Special Municipal Election. Payment of the Initial DAG shall be made in two equal installments. The first installment shall be made prior to adoption of the Adopting Ordinance by the City Council and the second shall be made within thirty (30) days from the Effective Date.

2.6.2.2 Payment of Development Agreement Fees. Upon the City's issuance of the initial building permit for each residential dwelling unit, and each commercial, retail or industrial building to be constructed within the Project, Owner shall pay to City a Development Agreement Fee in the amount specified in Section 2.5.1.2 below (each, a "DAG Fee" and collectively, "DAG Fees").

2.6.2.3 DAG Fees Payable. DAG Fees shall be payable in the following amounts for the various uses subject to the exceptions set forth herein below in Section 2.6.2.4:

2.6.2.3.1 Single Family (SF) Dwelling Unit - $4,500/unit

2.6.2.3.2 Multi-Family (MF) Dwelling Unit - $3,200/unit

2.6.2.3.3 Mixed-Use (MXU) Dwelling Unit - $2,500/unit

2.6.2.3.4 Commercial/Retail/Industrial Building - $1.00/sf

2.6.2.3.5 Private Institutional/Places of Worship (non-sanctuary) Building - $1.00/sf

Commencing July 1, 2018, the DAG Fees shall be adjusted annually as of July 1 of each year based on the percentage increase or decrease, if any, of the Engineering News Record Construction Cost Index for the Los Angeles Metropolitan Area for the twelve month period prior to May 1 of the year in which the change will be effective; provided, however, the DAG Fees shall never be less than the rates set forth above in this Section 2.6.2.3.

2.6.2.4 DAG Fee Exemptions. Notwithstanding the provisions of Section 2.6.2.3, no DAG Fees shall be payable for the following uses:

2.6.2.4.1 Residential units in publicly subsidized projects constructed as housing for low income households as defined pursuant to Section 50079.5 of the Health and Safety Code;

2.6.2.4.2 New homes, constructed by nonprofit organizations, specially adapted and designed for maximum freedom of movement and independent living for qualified disabled veterans;

2.6.2.4.3 Government/public buildings, public schools and public facilities;

2.6.2.4.4 Any nonprofit corporation or nonprofit organization offering and conducting full-time day school at the elementary, middle school or high school level for students between the ages of five and 18 years;

2.6.2.4.5 The sanctuary building of a church or other house of worship eligible for a property tax exemption.

2.6.2.5 Use of DAG Fees. The City shall deposit not less than One Million Dollars ($1,000,000) of DAG Fees paid by Owner into the Alberhill Park Fund to ensure adequate funding for all onsite improvements to the Regional Sports Park. In addition, City may in its sole and absolute discretion deposit additional DAG Fees into the Alberhill Park Fund in order to expedite construction of Regional Sports Park improvements. All DAG Fees deposited in the Alberhill Park Fund shall be repaid from future Alberhill Park Fees, if any, paid by Owner after completion of all Regional Sports Park improvements. DAG Fees not deposited into the Alberhill Park Fund may be used by City for any municipal purpose in accordance with Applicable Rules and Regulations.

2.6.3 Existing Development Impact Fees. For and in exchange of Owner's agreement to pay the Alberhill Park Fees, the DAG Fees and develop the Regional Sports Park with Funds deposited in the Alberhill Park Fund as provided in Sections 2.6.1 and 2.6.2, City

agrees that other than the payment of such Alberhill Park Fees and DAG Fees, Owner shall be required to pay only the following Existing Development Impact Fees as set forth in this Section 2.6.3:

- Storm Drain Capital Improvement Fund Fees
- Traffic Impact Fees
- Library Capital Improvement Fund Fees
- Fire Facility Fee
- City Hall & Public Works Facilities Fee
- Community Center Facilities Fee
- Marina Facilities Fee
- Animal Shelter Facility Fee
- TUMF

Upon City approval of each Phased Development Plan (PDP) in the Project in accordance with the Amended and Restated AVSP, the amount of each of the Existing Development Impact Fees to be paid upon issuance of building permits for Development within the boundaries of such PDP shall be locked for a period of five (5) years commencing as of the July 1 following the date of approval of the PDP and expiring on the fifth anniversary thereof. Thereafter, Owner shall pay all Existing Development Impact Fees at the current rate applicable at the time of issuance of each building permit in the Project. Notwithstanding the foregoing, TUMF fees may be paid prior to final inspection or issuance of occupancy permit and must be paid at the then applicable rate without any rate lock in accordance with the TUMF program. Notwithstanding anything to the contrary herein, Owner is exempt from the payment of MSHCP Fees, City Affordable Housing In Lieu Fees and City mandated affordability covenants and restrictions recorded against new dwelling units in the Project. Owner's exemption from the payment of Affordable Housing In Lieu fees and affordability covenants and restrictions shall survive the termination of this Agreement.

2.6.3.1 No New Fees. Owner shall not have an obligation to pay, contribute to, or otherwise provide as a condition or exaction of any subsequent approval by the City for the Development of the Property pursuant to the Amended and Restated AVSP, any new Development Impact Fees imposed by the City after the Effective Date of this Agreement.

3 PUBLIC FACILITIES AND IMPROVEMENTS

3.1 Acquisition of Necessary Property Interests.

If Owner is required by the Planning Documents to construct offsite improvements on lands not owned by either Owner or the City, Owner agrees to make a good faith effort to acquire the necessary property interest for the construction of these offsite improvements. Owner shall commence its good faith efforts to acquire the necessary property interests immediately upon the effective date of this Agreement or within thirty (30) days of being informed by the City that such offsite improvements are required in order to implement the Planning Documents. If Owner is unable to acquire the necessary property interests within one year before the offsite improvement is required to be constructed based on Owner's then existing Development schedule, the City shall acquire the necessary property interests by such means as are available to it, including eminent domain. Owner shall pay all actual costs incurred by the

City in acquiring the necessary offsite property interests, including but not limited to, inverse condemnation, attorneys' fees, land cost, severance, relocation, loss of future Development rights and any other costs related to the City acquiring the offsite real property interests required to construct the offsite improvements. The provisions of this Section 3.1 are in addition to, and not in lieu of, the Parties' respective rights and obligations under California Government Code Section 66462.5.

3.2 Financing Mechanisms for Public Facilities.

3.2.1 Public Facilities CFD. Upon Owner's submission of a finance plan City, in cooperation with and at the request of Owner, shall initiate and use its commercially reasonable efforts to cause the City to establish a Mello-Roos Community Facilities District (***"CFD"***) to finance public improvements and facilities to be constructed and installed in conjunction with their development of the Project on and with respect to the Property, in accordance with the provisions of the Mello-Roos Community Facilities Act of 1982 (Government Code §53311 *et seq.),* as amended (***"Mello Roos Act"***). It is understood that Owner shall not be entitled to receive the net proceeds of any CFD bonds to finance onsite improvements constructed by Owner to the Regional Sports Park and reimbursed to Owner from the Alberhill Park Fund. It is also understood that multiple CFDs may be established over portions of the Property in order to facilitate the funding of public improvements and facilities to correspond with the phased development of the Project. The parameters of the CFD(s) shall be as follows or as otherwise required to meet minimum requirements of California law, as the same may be amended from time to time: (i) a minimum loan-to-value ratio of 1 to 3; (ii) a total property tax/assessment payment not to exceed two percent (2%) of assessed value per year per parcel; (iii) a debt service coverage ratio not to exceed 1 to 1 (unless adequate credit enhancement is provided to the reasonable satisfaction of the City); and (iv) an annual escalator on the CFD tax and debt service of two percent (2%) per year (and subject to appropriate increases in the special tax upon defaults by other properties within the CFD).

3.2.2 Contingent Special Tax. As part of any public facilities CFD established pursuant to Section 3.2.1, a contingent special tax shall be included that will be levied on each assessor's parcel of taxable property in an amount required in any fiscal year to pay the cost of the City's maintenance and operation of the improvements, including administrative expenses, and to fund an operating reserve following default by the applicable Homeowner's Association (HOA) of its obligation to maintain such improvements which may include maintenance and lighting of parks, parkways, streets, roads and open space, which maintenance and lighting services may include, without limitation, furnishing of electrical power to street lights; repair and replacement of damaged or inoperative light bulbs, fixtures and standards. Default by the HOA will be deemed to have occurred in each of the following circumstances: (i) the HOA files for bankruptcy; (ii) the HOA is dissolved; (iii) the HOA ceases to levy annual assessments for the maintenance of the improvements described above; or (iv) the HOA fails to maintain such improvements at the same level as the City maintains similar improvements throughout the city and within ninety (90) days after written notice from the City, or such longer period permitted by the City Manager, fails to remedy such maintenance deficiency to the reasonable satisfaction of the City Council.

3.3 Participation in No. CFD 2015-1 and CFD No. 2015-2.

3.3.1 Public Safety, Fire, Paramedic and Police Services.

Prior to approval of a Final Map, Parcel Map, Residential Design Review, or Conditional Use Permit (as applicable), the project developer shall annex into Community Facilities District No. 2015-1 (Safety) or such other Community Facilities District for Law Enforcement, Fire and Paramedic Services established at the time of such approval to offset the annual negative fiscal impacts of the project on public safety operations and maintenance issues in the City. Alternatively, the project developer may form a new Community Facilities District for Law Enforcement, Fire and Paramedic Services or propose alternative financing mechanisms to fund the annual negative fiscal impacts of the project with respect to Public Safety services. Community Facilities District No. 2015-1 or other CFD for law enforcement, fire and/or paramedic services will be subject to a biennial review by the City and adjustments to special taxes collected thereunder will be made in accordance with the requirements of the Mello-Roos Community Facilities Act of 1982, as amended from time to time.

3.3.2 Maintenance Services.

Prior to approval of a Final Map, Parcel Map, Design Review, or Conditional Use Permit or building permit (as applicable), the project developer shall annex into Community Facilities District No. 2015-2 (Maintenance Services) or such other Community Facilities District for Maintenance Services established at the time of such approval to fund the on-going operation and maintenance of the (i) public right-of-way, including street sweeping, (ii) the public right-of-way landscaped areas and parks to be maintained by the City; and (iii) for street lights in the public right-of-way for which the City will pay for electricity and a maintenance fee to Southern California Edison, including streets, parkways, open space and public storm drains constructed within the Development and federal NPDES requirements to offset the annual negative fiscal impacts of the project. Alternatively, the project developer may form a new Community Facilities District for Maintenance Services or propose alternative financing mechanisms to fund the annual negative fiscal impacts of the project with respect to Maintenance Services.

4 IMPLEMENTATION OF PROJECT APPROVALS AND DEVELOPMENT

4.1 Implementation.

4.1.1 City Processing. City shall permit the uses on the Property that are permitted by the Planning Documents. City agrees that all applications for City approval shall be reviewed and acted upon within a reasonable period of time.

4.1.2 Duty to Grant and Implement. City's obligation to grant and implement City approval of the uses on the Property permitted by the Planning Documents shall not infringe upon the City's right to require conformity with the Planning Documents and the Applicable Rules and Regulations. If City rejects an application for a City approval, it shall provide, in good faith, a specific list of reasons why the application was rejected along with a description of specific and reasonable measures to correct each basis for rejection. If Owner submits its application incorporating all the measures to correct, the City shall deem the application is complete.

4.1.3 CEQA Guidelines §15182. City agrees to comply with all CEQA requirements, including CEQA Guidelines, §15182, which provides that where a public agency has prepared an EIR on a Specific Plan, no EIR or negative declaration need be prepared for a residential project undertaken pursuant to and in conformity to that Specific Plan if the Project meets the requirements of CEQA Guidelines §15182. Residential projects covered by CEQA Guidelines §15182 include, but are not limited to land subdivisions, zoning changes and residential planned unit Developments.

4.2 Outside Consultants.

At Owner's request, the City may at any time during the term of this Agreement, hire an outside consultant(s) to provide assistance on any issue associated with the Development of the Project, including but not limited to, processing subsequent Project approvals and conducting building inspections for the Project. Owner agrees to pay reasonable costs associated with the outside consultant(s) in addition to any application, processing and inspection fees otherwise due the City. The outside consultant(s) shall be under the exclusive direction of the City.

4.3 Other Governmental Agencies.

Owner and the City shall reasonably cooperate with each other in obtaining such additional permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project or the Property as may be required for the Development of the Project. Reasonable cooperation includes, but is not limited to, responding to reasonable requests for information in a timely manner, attendance at meetings and providing City determinations that are relevant to obtaining such additional permits or approvals. Owner will be responsible for all costs of obtaining such additional permits or approvals. Owner shall be entitled to request that the City support Owner in obtaining such additional permits and approvals for the Project. Owner shall have the primary responsibility for securing such permits and approvals, including all communications with the California Department of Transportation regarding the proposed access to the Project.

4.4 Implementation of Conditions of Approval.

If Owner believes it is unable to implement any condition required by the Planning Documents, Owner can request the City to modify or delete the condition or substitute another condition if substantial evidence exists that the condition is no longer feasible. Owner bears the burden of providing the substantial evidence to the City that the condition is no longer feasible and the City shall hold a public hearing prior to modifying, deleting or substituting the condition, if such a hearing is required by law.

5 PERIODIC REVIEW

City shall review this Agreement at least once every twelve (12) months from the Effective Date. During each periodic review, Owner is required to demonstrate good faith compliance with the terms of this Agreement, and shall furnish such reasonable evidence of good faith compliance as the City, in the exercise of its reasonable discretion, may require. Such periodic review shall be conducted administratively by the City Manager and any appropriate department heads designated by the City Manager to perform such periodic review. The City

Manager shall report the results of such periodic review to the City Council within thirty (30) days after the conclusion thereof. No public hearing shall be held by the City Manager, Planning Commission or City Council with regard to such periodic review; provided, however, that the City Council and/or the Owner shall have the right to appeal the City Manager's findings to the City Council, in which case Owner shall have the right to request a public hearing on the matter. City shall notify Owner in writing of the date for review at least thirty (30) days prior thereto. Any failure of either Party to comply with the provisions of this Section 5, will not constitute or be asserted by either Party as a breach by such Party.

6 DEFAULT AND REMEDIES FOR DEFAULT

6.1 Default.

No Party shall be in default under this Agreement unless it has failed to materially perform under the Agreement for a period of sixty (60) days after written notice from the other Party of an event of default. The notice of an event of default shall specify in detail the nature of the alleged default and the manner in which the default may be satisfactorily cured. If the nature of the alleged default is such that it cannot reasonably be cured within such 60-day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed to satisfy such requirement.

6.2 Remedies.

After the expiration of the sixty (60) day notice and cure period (or longer, as applicable) set forth in Section 6.1, if the alleged default is not cured to the reasonable satisfaction of the Party alleging default, the Party alleging default, at its option, may give notice of intent to terminate the Agreement pursuant to California Government Code §65868. Following notice of intent to terminate, the matter shall be scheduled for a public hearing before the City Council to review and consider the matter within 30 days. Following consideration of the evidence presented in the review, if the City Council determines that there is substantial evidence that the Party is then in material default under this Agreement, the Party alleging the default may give written notice of termination of this Agreement.

6.3 Specific Performance.

The Parties acknowledge that monetary damages and remedies at law generally are inadequate and that specific performance is an appropriate remedy for the enforcement of this Agreement and shall be available to all Parties for the following reasons:

6.3.1 Due to the size, nature and scope of the Project, it will not be practical, or possible, to restore the Property to its pre-existing condition once implementation of this Agreement has begun. After such implementation, Owner may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. Owner has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement, and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it will not be possible to determine the sum of money that would adequately compensate Owner for such efforts. By the same token, City will have invested substantial time and resources and will have permitted irremediable changes to the land and increased demands on the surrounding

infrastructure and will have committed, and will continue to commit to Development in reliance upon the commitment to provide infrastructure and related improvements and other exactions to meet the needs of the proposed Development and to mitigate its reliance upon the terms of this Agreement, and it would not be possible to determine a sum of money which would adequately compensate City for such undertakings.

6.3.2 The Property, and the use of the Property for the purposes and uses described in the Planning Documents are unique.

6.4 Cumulative Remedies.

In addition to any other rights or remedies, either Party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including declaratory relief, specific performance, injunctive relief, and relief in the nature of mandamus. All of the remedies described above shall be cumulative and not exclusive of one another, and the exercise of any one or more of the remedies shall not constitute a waiver of election with respect to any other available remedy.

6.5 Litigation Expenses.

If the City or Owner brings an action or proceeding (including, without limitation, any cross-complaint, counterclaim, or third-Party claim) against another Party arising out of this Agreement, the prevailing Party in such action or proceeding shall be entitled to its costs and expenses of suit, including reasonable attorneys' fees.

6.6 Venue.

Venue for all legal proceedings shall be in the Superior Court for the County of Riverside.

7 AMENDMENT

7.1 Amendment by Agreement.

This Agreement may be amended in writing from time to time by mutual consent of the Parties or their successors in interest in accordance with City Code Chapter 19.12 and the Development Agreement Statutes.

8 TERMINATION

8.1 Termination Upon Voter Approval of Land Use Initiative.

This Agreement shall automatically terminate and be of no further force or effect, in the event the proposed "Alberhill Villages Initiative" set for a Special Municipal Election on May 2, 2017 or any subsequent Voter Initiative affecting the Project is passed.

8.2 Termination Upon Completion of Development.

This Agreement shall terminate upon the expiration of the term, as more particularly set forth in Section 1.4 above, or when the Property has been fully developed and all of Owner's and City's respective obligations under this Agreement have been fully performed and satisfied, whichever first occurs. Upon termination of this Agreement, the City shall record

a notice of such termination in a form satisfactory to the City Attorney that the Agreement has been terminated. Notwithstanding anything to the contrary contained in this Agreement, this Agreement shall automatically terminate and be of no further force or effect as to any single-family residence or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy.

8.3 Land Use Entitlements Following Termination.

Termination of this Agreement shall not affect the General Plan and Zoning Amendments referenced in Recital E, the Amended and Restated AVSP, any applicable zoning, subdivision map, permits or other land use entitlements approved with respect to the Property.

8.4 Fees Following Termination.

Upon termination of this Agreement, Owner shall be required to pay the Alberhill Park Fee and all development impact fees then imposed by City on and in connection with new Development at the rate in effect as of the date of issuance of each building permit in the Project; provided, however, Owner shall not be required to pay the Affordable Housing In Lieu Fee for Development in the Project. In addition, the obligation to pay DAG Fees shall cease upon termination of this Agreement.

9 GENERAL PROVISIONS

9.1 Notices.

Any notice or communication required hereunder between or among City or Owner must be in writing, and may be given either personally or by registered or certified mail, return receipt requested to the addressees listed below. If given by registered or certified mail, the same shall be deemed to have been given and received on the first to occur of (i) actual receipt by the addressees designated below as the Party to whom notices are to be sent, or (ii) three (3) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any notices or communications shall be given to the Parties at their addresses set forth below:

If to City:	City of Lake Elsinore 130 S. Main Street Lake Elsinore, CA 92530 Attn: City Manager Facsimile: (951) 674-2392
With a copy to:	Leibold McClendon & Mann PC 9841 Irvine Center Drive, Suite 230 Irvine, CA 92618 Attention: Barbara Leibold Facsimile: (949) 585-6305
If to Owner:	Pacific Clay Products, Inc. 14741 Lake Street Lake Elsinore, CA 92530

	Attention: Legal Department
With a copy to:	Pacific Clay Products, Inc. c/o Castle & Cooke Alberhill Home Building, Inc. 10000 Stockdale Highway, Suite 300 Bakersfield, CA 93311 Attn: Laura Whitaker
And with a copy to:	Jones & Beardsley, P.C. Attn: Mark A. Jones 10000 Stockdale Highway, Suite 395 Bakersfield, CA 93311

Any Party hereto may at any time, by giving written notice to the other Party as provided in this Section, designate any other address in substitution of the addresses listed above.

9.2 Third Party Claims.

Owner shall defend, at its expense, including costs and attorneys' fees, indemnify, and hold harmless City, its agents, officers, officials, commissions, councils, committees, boards and employees from any claim, action or proceeding against City, its agents, officers, officials, commissions, councils, committees, boards or employees to attack, set aside, void, or annul the approval of this Agreement, the validity of any provision of this Agreement, any breach hereunder, or any action taken or decision made hereunder, including the approval of any permit granted pursuant to this Agreement, excluding only such claims, actions or proceedings which arise from City's sole negligence, willful misconduct or breach of its obligations under this Agreement. City shall promptly notify Owner of any such claim, action or proceeding, and City shall cooperate in the defense. In any defense of City and/or Owner against such an action, Owner shall have the right to select legal counsel and any experts or consultants deemed necessary and appropriate by Owner, subject to City's approval which shall not be unreasonably withheld. Owner's obligation to indemnify City hereunder shall survive any termination of this Agreement.

9.3 Further Actions.

Each Party shall take such further actions and execute and deliver to the other such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

9.4 No Joint Venture or Partnership or Third Party Beneficiary.

City and Owner agree that no joint venture or partnership exists between them and agree that nothing contained in this Agreement or in any document executed in connection herewith shall be construed as making City and Owner joint venturers or partners.

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9.5 Recitals.

The Recitals in this Agreement are material and are incorporated herein by reference as though fully set forth herein.

9.6 Exhibits.

The Exhibits to this Agreement is incorporated herein by reference as though fully set forth herein

9.7 Applicable Law.

This Agreement shall be construed and enforced in accordance with the laws of the State of California.

9.8 Severability.

If any of the provisions contained in this Agreement are determined to be void, invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect.

9.9 Interpretation.

This Agreement was fully negotiated between the Parties hereto and none of the terms of this Agreement shall be interpreted against any Party as the drafter of this Agreement.

9.10 Entire Agreement.

This Agreement sets forth and contains the entire understanding and agreement of the Parties with respect to the subject matter of this Agreement. Without limiting the generality of the foregoing, this Agreement supersedes and replaces that certain Preannexation and Development Agreement by and between the City of Lake Elsinore and Pacific Clay Products, Inc. recorded November 10, 2003 as Document No. 2003-889128 in the Official Records of Riverside County, California, and all rights and obligations of the Parties thereunder.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Owner and the City have executed this Agreement as of the date first hereinabove written.

CITY: CITY OF LAKE ELSINORE,
a municipal corporation

By: _____
Robert E. Magee, Mayor

ATTEST:

By: _____
Susan M. Domen, CMC City Clerk

APPROVED AS TO FORM:

By: _____
Barbara Leibold, Esq.,
City Attorney

OWNER: PACIFIC CLAY PRODUCTS, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Attachments:
Exhibit A - Legal Description
Exhibit B - Assignment and Assumption Agreement
Exhibit C - Reimbursement Agreement

Notary Acknowledgments Attached

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

ATTACHED

EXHIBIT B

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lake Elsinore
130 South Main Street
Lake Elsinore, CA 92530
Attention: City Clerk

(Space above for Recorder's use)

(Exempt from Recording Fees Per Govt Code §27383.)

ASSIGNMENT AND ASSUMPTION AGREEMENT
RELATIVE TO A DEVELOPMENT AGREEMENT BY AND
BETWEEN THE CITY OF LAKE ELSINORE AND PACIFIC CLAY
PRODUCTS, INC. REGARDING THE DEVELOPMENT KNOWN AS
ALBERHILL VILLAGES

This Assignment and Assumption Agreement ("Agreement") is entered into this ____ day of _____, 20____, by and between Pacific Clay Products, Inc., a Delaware corporation ("Owner") and _____, a _____ ("Assignee").

RECITALS

A. On _____, 20____ the City of Lake Elsinore and Owner entered into an agreement titled "Development Agreement By and Between the City of Lake Elsinore and Pacific Clay Products, Inc. Regarding the Development Known as Alberhill Villages ("Development Agreement"), pursuant to which the City of Lake Elsinore ("City") and Owner agreed to certain matters relating to the Development of certain real property owned by Owner as more particularly described in said Development Agreement (the "Property"). The Development Agreement was recorded against the Property in the Official Records of Riverside County, California, on _____, 20___, as Document No. _____.

B. Owner entered into a [*purchase and sale agreement, etc.*] whereby a portion of the Property will be [*sold, etc.*] to Assignee, which portion of the Property is identified and described in Exhibit A attached hereto and incorporated herein by this reference ("Assigned Parcel(s)").

C. Owner desires to assign to Assignee all of Owner's rights, interests, benefits, burdens and obligations under the Development Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all of Owner's rights, interests, benefits, burdens and obligations under the Development Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns, effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee; all of the rights, interests, benefits, burdens and obligations of Owner under the Development Agreement with respect to the Assigned Parcel(s) [*if applicable, reserving to Owner the following rights/interest/benefits/burdens/obligations, etc.:* _____] Owner retains all the rights, interest, benefits, burdens and obligations under the Development Agreement with respect to all other property within the Property owned by Owner.

2. Assignee hereby assumes all of the rights, interests, benefits, burdens and obligations of Owner under the Development Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Development Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s) [*if applicable, to the extent hereby assigned*], it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall become substituted for Owner as the "Owner" under the Development Agreement with respect to the Assigned Parcel(s) [*if applicable, to the extent hereby assigned*].

3. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

4. The Notice Address described in Section 1.13 of the Development Agreement for the Assignee with respect to the Assigned Parcel(s) shall be: _____.

5. Under the terms and conditions of the Development Agreement, Owner is hereby released and relieved of all burdens and obligations under the Development Agreement with respect to the Assigned Parcel(s).

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first above written.

OWNER: PACIFIC CLAY PRODUCTS, INC., a Delaware corporation

By: _____

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ASSIGNEE: _____,
_____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Notary Acknowledgments Attached

EXHIBIT A TO ASSIGNMENT AND ASSUMPTION AGREEMENT

LEGAL DESCRIPTION OF ASSIGNED PARCEL(S)

ATTACHED

EXHIBIT C

REIMBURSEMENT AGREEMENT

[TO BE INSERTED]